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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

15 KRISTINA KERLUS, an individual;  
16 Plaintiff,  
17 vs.  
18 DR. JENNIFER CORNEAL, in her  
19 individual capacity; A. SANTOS, in her  
20 individual capacity; CITY OF LAS VEGAS,  
21 a municipal corporation; COUNTY OF  
22 CLARK, a municipal corporation; LAS  
23 VEGAS METROPOLITAN POLICE  
24 DEPARTMENT; jointly and severally,  
25 Defendants.

Case No. 2:24-cv-02352

**REPLY IN SUPPORT OF PLAINTIFF'S  
MOTION TO EXTEND TIME FOR  
SERVICE OF THE FIRST AMENDED  
COMPLAINT ON DEFENDANT LAS  
VEGAS METROPOLITAN POLICE  
DEPARTMENT**

26 Plaintiff Kristina Kerlus ("Plaintiff"), by and through undersigned counsel, respectfully  
27 submits this Reply in Support of her Motion to Extend the Time for Service of the First Amended  
28 Complaint on Defendant Las Vegas Metropolitan Police Department (the "Motion").

**MEMORANDUM OF POINTS AND AUTHORITIES****INTRODUCTION**

The Court should reject Defendant Las Vegas Metropolitan Police Department's ("LVMPD") Opposition because it fails to dispute that good cause and/or excusable neglect exists to grant the Motion. Specifically, LVMPD's Opposition 1) does not effectively dispute that the mistake by Plaintiff's counsel meets the standard for good cause and/or excusable neglect under the circumstances; 2) ignores that the Court has already found good cause to extend the service deadline to May 2, 2025, and identifies no prejudice to LVMPD resulting from the incremental delay in service 12 days later, on May 14, 2025; and 3) impliedly concedes LVMPD received actual notice of the lawsuit prior to the Court's extended service deadline.

*First*, LVMPD does not credibly dispute that the mistake by Plaintiff's counsel, while regrettable, satisfies the good cause/excusable neglect standard. Ever since being retained by Plaintiff, undersigned counsel has worked diligently to accomplish service and prosecute this action. As noted in the Motion, a member of undersigned counsel's staff who was responsible for preparing the summons was rushing to accomplish service on all Defendants in light of the delays caused by prior, non-retained counsel. In this rush, the staff member neglected to prepare a summons for LVMPD. Contrary to the cases LVMPD cites in its Opposition, Plaintiff's failure to timely serve LVMPD was not the result of mere inaction, but rather an excusable oversight that undersigned counsel diligently corrected immediately upon being notified. Courts have found good cause and excusable neglect in similar circumstances. *See Dieleman v. Cummings*, No. 2:21-CV-01708-JCM-EJY, 2025 WL 593099, at \*4 (D. Nev. Feb. 21, 2025) (granting extension where failure to serve was based on honest error of counsel amounting to negligence, denial of an extension would result in severe prejudice to plaintiff, and opposing party identified no prejudice); *Martin v. Nevada*, No. 3:21-CV-00365-ART-CSD, 2024 WL 4834978, at \*2 (D. Nev. Nov. 19, 2024) ("Delays in filing resulting from negligence and carelessness, not deviousness or willfulness, may be considered excusable neglect.").

1       Second, LVMPD's Opposition ignores that this Court has already found good cause to  
2 grant Plaintiff's initial motion to extend the service deadline to May 2, 2025, and that it must  
3 demonstrate prejudice from the *incremental* delay in service beyond this extended deadline. All  
4 of LVMPD's claims of prejudice rest on the passage of time since the underlying events, which  
5 is the wrong time interval. After all, the long passage of time since the underlying events equally  
6 affects the other Defendants, and the Court was already aware of it when it ruled on Plaintiff's  
7 initial motion to extend the time for service. That motion highlighted the significant confusion  
8 caused by Plaintiff's former counsel, who filed the Complaint and First Amended Complaint  
9 without Plaintiff's authorization. *See generally*, ECF No. 20. Put simply, the initial delay in  
10 bringing this lawsuit and accomplishing service in the first instance was entirely based on factors  
11 beyond the control of Plaintiff or her counsel. *Id.* The Court recognized this in holding that good  
12 cause existed for an extension of the service deadline for all Defendants, including LVMPD, to  
13 May 2, 2025. *See* ECF No. 38. Accordingly, LVMPD's arguments about the prejudice it  
14 allegedly will suffer because of the passage of time are unavailing. Because the Court has already  
15 found good cause to extend the service deadline to May 2, 2025, LVMPD must instead  
16 demonstrate that it suffered some prejudice from the incremental 12-day delay between this May  
17 2, 2025 deadline and May 14, 2025, when service on LVMPD was accomplished. *See* ECF No.  
18 42. LVMPD's Opposition completely fails to identify any such prejudice.

19       Third, and relatedly, LVMPD fails to refute that it had actual notice of the existence of  
20 this action at least since the date when its employee, Defendant Santos, was served on April 8,  
21 2025. Instead of expressly denying that it had such notice, which it could easily do, LVMPD  
22 merely protests that there is "no support for the position that [LVMPD] received actual notice of  
23 this case . . . until after the initial service deadline expired." True enough, Plaintiff cannot  
24 definitively prove that LVMPD obtained notice of the suit before it was served. Only LVMPD  
25 can expressly confirm or deny this. Plaintiff merely noted in the Motion that it is highly likely  
26 that LVMPD did in fact have such notice before the extended service deadline because its  
27 employee was timely served. And by failing to outright deny that it had actual notice of the  
28

1 lawsuit prior to the expiry of the extended service deadline, when it has ample motivation to do  
 2 so, LVMPD impliedly concedes that it had such notice. LVMPD's implied concession that it had  
 3 actual notice underscores that it will suffer no prejudice from an incremental extension of the  
 4 service deadline, while Plaintiff will suffer severe prejudice if the Motion is denied. Accordingly,  
 5 Plaintiff's Motion should be granted.

6 **ARGUMENT**

7 **I. LVMPD Fails to Dispute that Plaintiff's Counsel's Failure to Timely Accomplish  
 8 Service Amounts to Good Cause, or at Minimum, Excusable Neglect.**

9 LVMPD argues that Plaintiff's Motion does not demonstrate good cause or excusable  
 10 neglect because undersigned counsel's mistake is insufficient to meet either standard. ECF No.  
 11 43 at \*\*5-6. Not so. Courts have found good cause and excusable neglect in analogous  
 12 circumstances based on findings that the Plaintiff's failure to timely serve amounted to mere  
 13 negligence by an otherwise diligent plaintiff. *See Dieleman v. Cummings*, No. 2:21-CV-01708-  
 14 JCM-EJY, 2025 WL 593099, at \*4 (D. Nev. Feb. 21, 2025) (finding good cause for an extension  
 15 where moving party's yearslong delay to formally serve opposing party resulted from mistake of  
 16 counsel amounting to negligence, and where opposing party had actual notice and identified no  
 17 prejudice from the delay); *Martin v. Nevada*, No. 3:21-CV-00365-ART-CSD, 2024 WL 4834978,  
 18 at \*2 (D. Nev. Nov. 19, 2024) ("Delays in filing resulting from negligence and carelessness, not  
 19 deviousness or willfulness, may be considered excusable neglect.").

20 Plaintiff's delay in serving LVMPD, while unfortunate, meets both the good cause  
 21 standard and the standard for excusable neglect. Ever since being retained in March 2025,  
 22 Plaintiff's retained counsel and undersigned counsel have worked diligently to accomplish  
 23 service and litigate this case. As explained in the Motion, undersigned counsel's staff promptly  
 24 began preparing summonses for each of the Defendants. In light of the prior delays and confusion  
 25 caused by Plaintiff's former, non-retained counsel—which were entirely outside of undersigned  
 26 counsel's control—the staff member assigned to the case was rushing to prepare multiple  
 27 summonses. The staff member filed the summonses and arranged for service without realizing  
 28

1 that no summons for LVMPD had been prepared. Immediately upon being informed of this  
2 oversight by the Court on May 8, 2025, undersigned counsel prepared a summons and filed the  
3 Motion seeking an incremental two-week extension of time to accomplish service on LVMPD.  
4 See ECF 39-40. But for this honest mistake, amounting to negligence at most, LVMPD would  
5 have been timely served within the Court's extended deadline of May 2, 2025. Because of  
6 Plaintiff's diligence, LVMPD was ultimately served on May 14, 2025, only 12 days after the  
7 extended deadline. ECF No. 42. There is no basis to argue that such a mistake is inconsistent  
8 with good cause, or at minimum, excusable neglect.

9 LVMPD's cited cases are not to the contrary. None involved a Plaintiff whose retained  
10 counsel had demonstrated diligence in attempting service, and whose failure to serve one among  
11 several defendants was based on a good faith oversight, as opposed to willfulness, deviousness,  
12 or mere inattention. For example, LVMPD approvingly cites Bouari v. United States, No. 2:21-  
13 cv-01974-APG-DJA, slip op. at \*2 (D. Nev. Nov. 7, 2022), because the court declined to extend  
14 the time for service after the plaintiff had already received additional time to serve, but the case  
15 is not remotely analogous. In Bouari, the court had granted the plaintiff's first extension request  
16 only begrudgingly, finding that "good cause is questionable and excusable neglect  
17 underdeveloped" because the plaintiff's only excuse for failing to timely serve was that its chosen  
18 process server was bedridden. *Id.* at \*1. And in the second extension request, the plaintiff did  
19 not provide the court with any reason why its failure to meet the extended service deadline  
20 amounted to excusable neglect. *Id.* at \*2. Here, by contrast, Plaintiff's first extension request  
21 clearly demonstrated good cause (as the Court has already found), and the instant request for an  
22 incremental extension is based on a legitimate oversight during Plaintiff's diligent attempt to  
23 accomplish service on all Defendants. Plaintiff sincerely regrets that it was not able to serve  
24 LVMPD at the same time as the other defendants, but its failure was an honest mistake that was  
25 promptly corrected. This is sufficient to demonstrate good cause and excusable neglect.

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1           **II. LVMPD’s Arguments About Prejudice Ignore that the Court Already Found**  
 2           **Good Cause to Extend the Time to Serve the First Amended Complaint.**

3           LVMPD next argues that Plaintiff cannot demonstrate excusable neglect because of the  
 4           “inherent[] prejudice” it claims to have suffered because of the “unreasonable delay” between the  
 5           underlying events and the date on which LVMPD was served. ECF No. 43, at \*\*6-7. In this  
 6           regard, LVMPD notes that the “extreme passage of time” will impact witness testimony and  
 7           impair its ability to locate relevant evidence. *Id.* at \*7. But LVMPD is focused on the wrong  
 8           period of time. The Court already found good cause to extend the service deadline for all  
 9           Defendants until May 2, 2025. *See* ECF No. 38. When Plaintiff filed her first motion to extend  
 10          the service deadline, the Court understood there has been a significant lapse of time since the  
 11          underlying events, and that Plaintiff filed her Complaint just before the expiry of the statute of  
 12          limitations. And all of LVMPD’s arguments about the “extreme passage of time” between the  
 13          underlying events and the filing of the Complaint apply with equal force to the other Defendants.  
 14          Nevertheless, the Court held that good cause existed to extend the service deadline for all  
 15          Defendants, including LVMPD, until May 2, 2025. *Id.* Even LVMPD must concede that service  
 16          on any day up to and including May 2, 2025 would not have been “unreasonabl[e]”,  
 17          notwithstanding the time that has elapsed. Thus, all of LVMPD’s arguments about the prejudice  
 18          it will supposedly suffer due to the “extreme passage of time” since the underlying incident are  
 19          unavailing. LVMPD was instead required to demonstrate why it would be prejudiced by the 12-  
 20          day delay between the May 2, 2025 extended service deadline and the May 14, 2025 date on  
 21          which it was served. *See* ECF No. 42. But LVMPD has failed to identify any prejudice resulting  
 22          from this minor delay. Nor could it do so, because as explained below, LVMPD has effectively  
 23          conceded that it received actual notice of the lawsuit when its employee, Defendant Santos, was  
 24          timely served with the First Amended Complaint on April 8, 2025.

1                   **III. By Failing to Expressly Deny that It Had Actual Notice of the Lawsuit Prior to**  
 2                   **the Extended Service Deadline, LVMPD Impliedly Concedes that It Did.**

3                   LVMPD objects to Plaintiff's argument that it will suffer no prejudice because it had  
 4                   actual notice of the existence of this action, but importantly, it does not actually deny that it had  
 5                   such notice. ECF No. 43 at \*8. Rather, LVMPD merely asserts that Plaintiff's notice argument  
 6                   is "unsupported." *Id.* Plaintiff freely acknowledges that she cannot definitively prove whether  
 7                   or not LVMPD obtained actual notice, as this is something only LVMPD would be able to  
 8                   confirm. But this makes LVMPD's failure to expressly deny Plaintiff's assertion all the more  
 9                   conspicuous. LVMPD knows whether it obtained actual notice of the lawsuit, and if it did not  
 10                  receive such notice, its counsel undoubtedly would be able to say so in the Opposition. By failing  
 11                  to make an express denial, therefore, LVMPD effectively concedes that it obtained actual notice  
 12                  of the action before the expiry of the extended service deadline. For this reason, LVMPD will  
 13                  experience no prejudice should the Court grant an incremental two-week extension of the time  
 14                  for service. Given that LVMPD has likely known of the existence of this lawsuit for several  
 15                  weeks, the 12-day delay in Plaintiff's service on LVMPD will not impair its ability to defend the  
 16                  claims asserted against it in the action. *Cf. Bd. of Trs. of S. Nevada & California Glaziers,*  
 17                  *Fabricators, Painters & Floorcoverers Pension Tr. Fund v. Scoutlite Corp.*, 2024 WL 4451654, at  
 18                  \*1 (D. Nev. Sept. 16, 2024) ("Rule 4 . . . is a flexible rule that should be liberally construed so  
 19                  long as a party receives sufficient notice of the complaint."). Moreover, as noted in the Motion,  
 20                  Plaintiff is willing to make any scheduling accommodation necessary to account for its oversight  
 21                  in failing to accomplish service on LVMPD at the same time as the other Defendants.

## **CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court grant the Motion and extend Plaintiff's time to serve the First Amended Complaint on LVMPD to and until May 23, 2025.

Respectfully submitted,

PAUL PADDALAW

/s/ Paul S. Padda

Paul S. Padda, Esq

*Attorney for Plaintiff*

Dated: June 3, 2025

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**CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Civil Procedure, the undersigned hereby certifies that on this day, June 3, 2025, a copy of the foregoing document was filed with the Court and a copy served upon all respective parties and their counsel through the Court's electronic filing system.

/s/ Nicole Moran  
Nicole Moran  
Paralegal

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